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**PRELIMINARY DRAFT**  
**No. 3607**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2006 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** IC 31-16; IC 31-18-1-8; IC 33-37-5-6.

**Synopsis:** Annual child support fee. Provides that an individual ordered to pay child support through income withholding shall also pay the annual child support fee through income withholding.

**Effective:** July 1, 2006.



A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 31-16-15-1, AS AMENDED BY P.L.234-2005, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) In a proceeding under IC 31-14 or IC 31-16-2 through IC 31-16-12 to establish, modify, or enforce a child support order, the court shall:

- (1) enter an order for immediate income withholding; and
- (2) modify any previously issued income withholding order that has not been activated under this chapter to provide for immediate income withholding.

(b) The court shall issue the income withholding order to the income payor not later than fifteen (15) calendar days after the court's determination.

(c) The income withholding order must order income payors to send to the state central collection unit ~~or other person specified in the support order~~ under:

- (1) IC 31-14-11-11;
- ~~(2) IC 31-16-4; or~~
- ~~(3) (2) IC 31-16-9; or~~
- (3) IC 33-37-5-6;**

the amount of income established by the court for child support at the time the order for child support is established, enforced, or modified **and the annual fee required under IC 33-37-5-6.**

(d) However, the court shall issue an income withholding order that will not become activated except upon the occurrence of the two (2) conditions described in section 2 of this chapter if:

- (1) the parties submit a written agreement providing for an alternative child support arrangement; or
- (2) the court determines that good cause exists not to require immediate income withholding.

(e) A finding of good cause under subsection (d)(2) must:

- (1) be written; and



(2) include:

(A) all reasons why immediate income withholding is not in the best interests of the child; and

(B) if the case involves a modification of support, a statement that past support has been timely paid.

(f) The income withholding order must contain a statement that if the withholding order is activated, income payors will be ordered to send to the state central collection unit ~~or other person specified in the support order~~ under:

(1) IC 31-14-11-11;

~~(2) IC 31-16-4; or~~

~~(3) (2) IC 31-16-9; or~~

**(3) IC 33-37-5-6;**

the amount of income established by the court for child support **and the annual fee required under IC 33-37-5-6.**

SECTION 2. IC 31-16-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever in any court proceeding an order is in force for

~~(1) the support and maintenance of the other party to the proceeding, or~~

~~(2) the support and maintenance of a child;~~

the individual required to pay the support shall pay the support.

(b) The clerk, **if the payment is in cash, or the state central collection unit, for all other forms of payment**, shall collect from the individual, in addition to the payments, the fee specified in IC 33-37-5-6.

(c) The clerk may collect any unpaid fee in a proceeding for contempt.

SECTION 3. IC 31-18-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. "Income withholding order" means an order or other legal process directed to an obligor's income payor to withhold:

**(1) support;**

**(2) support fees; and**

**(3) maintenance fees;**

from the income of the obligor.

SECTION 4. IC 33-37-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk **or the state central collection unit.**

(b) The clerk **or the state central collection unit** shall collect a fee, in addition to support and maintenance payments. The fee is the following:

(1) Twenty dollars (\$20) for the calendar year in which the initial order is entered, unless the first payment is due after June 30 of



- 1           that calendar year.
- 2           (2) Ten dollars (\$10) for the calendar year in which the initial
- 3           order was entered, if the first payment is due after June 30 of that
- 4           calendar year.
- 5           (3) In each subsequent year in which the initial order or a
- 6           modified order is in effect, twenty dollars (\$20) if the fee is paid
- 7           before February 1, or thirty dollars (\$30) if paid after January 31.
- 8           (c) The fee required under subsection (b) is due at the time that the
- 9           first support or maintenance payment for the calendar year in which the
- 10          fee must be paid is due.
- 11          (d) The clerk may not deduct the fee from a support or maintenance
- 12          payment.
- 13          (e) Except as provided under IC 33-32-4-6, IC 33-37-7-1(g), and
- 14          IC 33-37-7-2(g), the clerk shall forward the fee collected under this
- 15          section to the county auditor in accordance with IC 33-37-7-12(a).
- 16          **(f) Income payors required to withhold income under**
- 17          **IC 31-16-15 shall pay the annual fee required by subsection (b)**
- 18          **through the income withholding procedures described in**
- 19          **IC 31-16-15-1.**

